

MAQASID SHAR^cIYYAH ACCORDING TO AL-QARADAWI IN THE BOOK AL-HALAL WA AL-HARAM FI AL-ISLAM

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Abstract

al-Qaradawi is presently a renowned scholar in the Islamic world. He is well known for his contemporary views which are highly appreciated in answering dilemmas faced by the ummah (muslim populace). And the main reason is his empathic approach to the hardship and mundane issues beguiling the lives of Muslims. Among the main attributes that makes his fatwa or views so unique is the inclusion of maqasid shar^ciyyah in issuing views befitting the realities of the modern world civilizations. This article will analyse three important aspects which are firstly the background of al-Qaradawi and its relation to the problems of ummah. Secondly the maqasid shar^ciyyah principles applied in his views and writings on various issues and topics. Thirdly, analyzing the use of maqasid syar^ciyyah in his first writing which is al-Halal Wa al-Haram Fi al-Islam. This book is selected because it is the first writings of al-Qaradawi that took into account the maqasid shar^ciyyah and is widely accepted by Muslims allover the world and reprinted 16 times by wahbah press alone. The findings of this research should prove that issues written in al-Halal Wa al-Haram Fi al-Islam did apply the maqasid shar^ciyyah which is dominant in his answers to contemporary issues of the ummah. Hopefully this short research will provide a drive to the scholars in Malaysia to intensively study and understand Maqasid shar^ciyyah as an important element in contemporary ijti^had.

Keywords: maqasid shar^ciyyah, al-Qaradawī, life safety, brotherhood, justice.

Introduction

Al-Qaradawi is a presently a renowned scholar in the Islamic world. His sharp ideas discussed a lot of issues engulfing the Islamic world. He is a scholar who experienced the bitterness in the struggle faced by the Muslims all over the world, especially the Muslims in Palestine. Among his ideas that demonstrated the consideration of the element of maqasid shar^ciyyah is his work 'al-Halal Wa al-Haram Fi al-Islam'. This book is the first book produced by him and it received an overwhelming response among the Muslims all over the world. This book talks about the questions of halal and haram in Islam in a full form, by referring directly to al-Quran passages, al-Sunnah, the opinions of previous scholars and the strong methods that have become the starting point in the introduction of halal and haram in Islam. It takes maqasid shar^ciyyah into consideration in presenting various issues beguiling the Muslims. Maqasid shar^ciyyah has become a very important tool in constructing Islamic laws that must be acknowledged by every faqih before performing ijti^had in drawing a law, especially in contemporary issues that have no clear passages from al-Quran as well as al-Sunnah. This book has been reprinted 16 times by Wahbah library in Qahirah alone and it has been translated in many languages including Indonesian and Malay languages.

Among the important questions that will be covered by the researcher in this writing are what are the forms of maqasid shar^ciyyah according to al-Qaradawi and how did he applied the principals of maqasid shar^ciyyah in his book 'al-Halal Wa al-Haram Fi al-Islam'?

The objective of this short research is to explain the concept of maqasid shar'iyah according to al-Qaradawi and the forms of maqasid shar'iyah applied by him in the book *al-Halal Wa al-Haram Fi al-Islam*. The importance of this research is it exposes the Islamic intellectuals in this country especially the scholars, mufti and fellow lecturers in the field of Islamic studies on the importance of applying maqasid shar'iyah in their ijthad when trying to solve current issues happening among the Muslims that have no clear passages from al-Quran and al-Sunnah.

The writings on maqasid shar'iyah have been done many times before by scholar figures in usul Fiqh. Some are in the forms of complete books while others are in the forms of small chapters discussed in books related to the science of Usul Fiqh. Among the figures who discussed this issue in a specialized work in this 20th century is Al-Shaykh Ibn Ashur and Allal al-Fasi. Among the example of Usul Fiqh books that discussed Maqasid Shar'iyah are the works of 'Abd al-Wahhab Khallaf (1984) 'Abd al-Karim Zaydan (1987,) and others. Among the relatively interesting analysis on maqasid al-shari'ah in Malay language is a book titled maqasid al-shari'ah by Rosli Mokhtar and Mohd Fikri Che Husain (2007). Meanwhile, the analysis on maqasid al-shari'ah highlighted by al-Qaradawi has been done by well-known Islamic academician figures in the Middle East in the form of paper works such as *Ri'ayah al-Maqasid Fi Manhaj al-Qaradawi* by Wasfi Abu Zayd (2008), *Maqasid Shar'iyah 'Inda al-Shaykh al-Qaradawi* by Jasir 'Awdah (2008) and others. However, the analysis done on the forementioned books did not directly discuss on the forms of maqasid shar'iyah applied by al-Qaradawi in his book *al-Halal Wa al-Haram Fi al-Islam*.

Since the focus of this research writing are towards maqasid shar'iyah according to al-Qaradawi and its applications in the book *al-Halal Wa al-Haram Fi al-Islam*, the information collected focuses on the book al-Halal Wa al-Haram itself and other books related to Usul Fiqh and maqasid shar'iyah. The information collected is based on library research.

THE BACKGROUND OF AL-QARADAWI

Al-Qaradawi was born in the year of 1926 in a village in the Arab Republic of Egypt. He spent his time in primary and secondary school by seeking knowledge at the al-Azhar college. His excellence in knowledge was prevalent at that time until one of his teachers called him al-Allamah al-Qaradawi, even though he was only in standard four. After completing his study in secondary level, he further his studies in Usuluddin Faculty, Al-Azhar University until he obtained his First Class Degree. Then he obtained an 'Alimiyyah degree and was appointed as an instructor in Arabic Language Faculty in 1954. In 1960 he again continued his studies in Usuluddin Faculty and successfully acquired a masters degree in the field of al-Quran and al-Sunnah and in 1973 he acquired the most excellent level of Philosophical Doctorate degree (sharaf Ula) from the same faculty after presenting a thesis titled Zakat (obligatory alms) and its Effects in Solving Community Problems. (Talimah 2000: 11-13).

He has contributed a lot to Islam and ummah. Some of them are in the field of fiqh and fatwa. He has become a reference for the Muslims from all over the world, be it for those who live inside or outside Islamic countries. His fatwa methods can clearly be seen in the first volume of his work titled *Fatawa 'Mu'asirah'* that has taken a moderate approach and facilitates the Muslims in solving issues happening around them. In fiqh field he referred directly to al-Kitab and al-Sunnah and he utilized the opinions of fellow companions, ijthad of previous scholars as well the analysis done by the earlier or contemporary scholars. He chooses the opinions that suits most with the al-Quran and al-Sunnah spirit, that facilitates the Muslims and more suitable with the current situation without a speck of jumud attitude or being too sloppy. (Akram al-Nadawi 2001: 48). His work reached 120 works altogether ranging from major books with volumes to small scriptures. They involved various subjects including Fiqh and Usul Fiqh, facilitating Fiqh for modern Muslims lives, Islamic economy, Ulum al-Quran and al-Sunnah, Islamic faith, Fiqh al-Suluk based on the balance of al-Quran and al-Sunnah, dakwah and tarbiah, fostering awareness and harakah Islamiyyah, small scriptures on the obligation to settle an issue in Islamic ways, general issues in Islam, Islamic personality, literatures and poems, scriptures related to cultivating Islamic awareness as well as lectures.

For his tremendous efforts for the Muslims and ummah in various knowledge disciplines related to the Islamic studies and legislatives, he was awarded with Islamic Development Bank Award in 1411H, in Islamic economy, al-Malik Faisal International Award 1413H, in the field of Islamic studies, Scientific Excellence Award from the International Islamic University Malaysia and King Hasanah Bolkia Award, Brunei in Fiqh Islam in 1997. (Talimah 2000: 13). These recognitions will not be awarded except for personages who have given tremendous contributions to Islam and ummah only.

MAQASID SHAR[‘]IYYAH

Maqasid Shar[‘]iyyah is defined in many definitions by Usul scholars. Amongst them are:

1. Maqasid is the goal to be achieved in doing something. When maqasid shar[‘]iyyah is mentioned, it means the objective that has been set by syarak in ruling a law. Amongst the famous terms used are maqasid syar[‘]iyyah, maqasid al-Shari[‘] (Allah) and maqasid syara[‘] or in Arabic language is referred as *Maqasid al-Shari[‘]ah*. (al-Raysuni 1992: 13).
2. Maqasid is the wisdoms and maslahah for humans be it in this world or hereafter. (Ibn Qayyim al-Jawziyyah 1996: 37). The changes of law that has taken place based on time and place evolution is to ensure that syariah can accommodate the public needs.
3. Maqasid is to avoid harm. (Al-Khadimi 1998: 49-50).
4. Maqasid is all sort of comprehension that can be seen in the laws being made completely or mostly. (Ibn [‘]Ashur 1998: 171). This means maqasid is not a comprehension that can be seen on a certain laws specifically. For instance to encourage benevolence, reject evil and equality concept among humans are the elements contained in each ruling of syarak laws.
5. Maqasid is the syariah goal and the secrets of ruling every law. (al-Qarni 1419H: 17).

From the above definitions it can be concluded that what is referred to maqasid shar[‘]iyyah is the goals that want to be achieved by syariat for the sake of humans maslahah.

DIVISIONS OF MAQASID SHAR[‘]IYYAH

Maqasid can be divided into three sections. They are general maqasid, specific maqasid and maqasid juz’i (micro). General maqasid is the objective that is considered by syarak in determining all or most of the syarak laws. For example the justice and equality (al-Musawah) concept that can be found in all syarak laws. (al-Raysuni 1992: 15). General maqasid includes five main importance that have become the main objective of syariat that brings benefit to humankind in this world and hereafter like taking care of religion, life/soul, mind, offspring, wealth and honor. It is mentioned in chapter Masalih which has been discussed by earlier maqasid personages such as al-Juwayni (1400H: 253), al-Ghazalī (1413H:1: 172), al-Tufi (1419H: 239), al-Qarafi (1994: 5: 478) and [‘]Iz al-Din bin [‘]Abd al-Salam (2000: 2: 314). Specific maqasid is a maqasid taken into consideration by syariah in determining something or a few groups of certain laws such as family laws (al-Raysuni 1992: 15). Some examples are not to cause harm or danger to women, prevention element in punishment, to abolish scam in wealth management and others. ([‘]Awdah 2006: 17). While maqasid micro is what is considered by syariah in determining a certain laws (al-Raysuni 1992: 15) like preventing difficulties in allowing a person who can observe saum (fast) to break his fast and manifesting a firm assurance in the prohibition to keep the meat from sacrificed animals. ([‘]Awdah 2006: 17). However, general maqasid is the specific topic in the discussion of usul fiqh and maqasid knowledge. While specific maqasid is the discussion topic for fiqh scholars. (al-Raysuni 1992: 15).

THE IMPORTANCE OF MAQASID SHA[‘]RIYYAH

Knowing about maqasid shar[‘]iyyah is fardu kifayah. The Muslims are sinned if there’s no group from among them who learn it (Awdah 2007: 75). The importance of maqasid shar[‘]iyyah are:

1. To Understand al-Quran Al-Karim with the Correct Comprehension

In understanding al-Quran, some of its ayah have to be connected with other ayah which are related, so that the meaning is clear, the goal to be achieved is obvious, the path towards it is right, and the maqasid shar^ciyyah contained in it is reflected, on the other hand the conduct of taking a portion of al-Quran passages and leaving the other portion that is connected to it or taking passages that contradict each other, is a conduct forbidden by Rasullullah s.a.w. (al-Qaradawi 1992: 180-181).

2. To Understand Islamic Syariah in General

Knowing maqasid shar^ciyyah in Islamic legislatures is important to anyone who wishes to learn syariah and dive in its secrets. Ignorance in the field propels some people to reject a certain law that has syarak passages, because they were convinced that when there is no maslahah that can be considered behind a certain law that is stated in the passage or seen as contradicting the maslahah, it is not syarak law in real terms, rather it is a foreign subject brought in by certain people into syariah via ijti^had and takwil path. (al-Qaradawi 1990: 83).

3. To Continue Ijti^had Movements

True ijti^had will not take place except after an individual understanding towards syarak passages switched from external aspect to the objective that exists behind that passages, because holding too tightly to external passage will cause negligence towards the wisdoms and secrets of the emergence of certain passages and there will not exist justice protection, ihsan, sympathy, brotherhood, love, assurance and cooperation in performing good deeds and takwa, which, among others are the highest reason Allah s.w.t sent down His syariat for humankind. (al-Qaradawī 2004a: 32-33).

4. To Confirm Ijti^had

To achieve the level of being able to perform ijti^had, there are two habits that must be possessed by an individual. One of the habits is to completely understand maqasid shar^ciyyah, because maqasid is based on consideration of three forms of maslahah which are daruriyat, hajiyat and tahsinat. Thorough understanding in maqasid shar^ciyyah has propelled Rasullullah's s.a.w companions to do some things that has not being done by him in his lifetime, when it can be seen that such actions would benefit the ummah. (al-Qaradawi 1996: 54-57).

5. To Strengthen Mufti's Task

A mufti must be a person who can choose a strong opinion from amongst the numerous opinions suggested by scholars that are contradictive to each other in solving an issue, by looking at the dalil reasoning presented by each party be it nakli or akli. Hence the opinion selected will be more suitable with syarak passages, closer to its maqasid and more capable of looking after the maslahah of creatures. This requires a person to learn Arabic language and to obtain knowledge in related fields, understand maqasid shar^ciyyah, besides learning tafsir (interpretation) knowledge, hadeeth and comparison laws. (al-Qaradawi 1995: 101-102).

MAQASID SHAR^CIYYAH ACCORDING TO AL-QARADAWI

Maqasid shar^ciyyah according to al-Qaradawi, partly emerged based on his thinking. Before explaining in further details on maqasid shar^ciyyah according to al-Qaradawi, what is meant by "thinking" must be explained first. Thinking bears a meaning of using our mind to identify a certain matter. (Jamil Saliba 1994: 154). When mentioning Islamic thinking it means thinking based on revelations to analyze various knowledge disciplines related to humans lives in this universe. All syarak knowledge drafted by Islamic scholars like the science of Usul Fiqh, Mustalah hadith, fiqh, fiqh methods, maqasid shar^ciyyah and others are the products of Islamic thinking because they emerged from the thinking done by Islamic scholars in understanding al-Quran passages as well as al-Sunnah. (Khalfi 2007: 3). Therefore when maqasid shar^ciyyah is mentioned, according to al-Qaradawi it is referred to his understanding and approach in analyzing maqasid shar^ciyyah, which is one of the important elements in Islamic judiciary.

Al-Qaradawi strongly emphasized on the importance of maqasid shar^ciyyah in understanding Islam be it in terms of faith, syariah, moral as well as thinking. Ulwaniyy nicknamed him as Faqih al-Maqasid which means a skilled expert who possesses sharp opinions in maqasid shar^ciyyah, whether the general or juz'i maqasid and

he completely master what he wrote other than having his own ideas in scholarly issues related to maqasid shar'iyah itself, in fact he is a faqih who presented most of the reasons and goals towards syarak laws in all fields, and in deed it is not excessive to say that among the main specialties of al-Qaradawi fiqh is the consideration of maqasid shar'iyah. (al-Raysuni 2004). Al-Qaradawi defines maqasid shar'iyah as the final conclusion aimed by syarak passages such as passages in the forms of instructions, what are forbidden and what are allowed, while juz'i laws try to realize it into the lives of mukallaf be it individual, family or community. (2006: 11-13).

This definition done by al-Qaradawi is beyond his attention towards individual maslahah which was the attention of earlier scholar figures, rather it is an attention towards family and public interests. Al-Qaradawi separates maqasid from 'ilah. According to him maqasid is not 'ilah which is discussed by Usul scholars while debating about qiyas which they defined as external habits than can be measured and suitable with the law. 'ilah is the reason for the emergence of laws, but it is not the law maqasid it self. For example fellow Usul scholars explain the flexibility bestowed upon the Muslims in shortening (qasar) and combining (jamak) two prayers and breaking fast in Ramadhan for the reason of being a musafir (on a journey) and not because of difficulties that cannot be born faced by the musafir. This is what is said as a wisdom. A law cannot be drawn based on wisdom because wisdom is something beyond measurements. Building laws based on wisdom alone creates a lot of damages in the society. (Abu Zayd 2007: 8).

In discussing the maslahah which is part of maqasid shar'iyah being debated, al-Qaradawi (1990: 62-63) explained that the "maslahah" meant by him is comprehensive interest/maslahah. It is not merely the maslahah for worldly matters, material, individual, sect or a certain level of society, district, ethnic and today's generation, on the contrary it involves maslahah that can support the needs of worldly and hereafter, material and spiritual, individual and society, sect and ummah, the maslahah of a certain nation and the maslahah of mankind in general and today's generation as well as future generations. This kind of maslahah cannot be realized except by Allah s.w.t only. In terms of maslahah separation based on its strength he put the first level of maslahah is maslahah daruriyat followed by maslahah hajiyat and finally tahsinat, as was done by al-Ghazali.

In presenting about safeguarding the maslahah daruriyat he affirms that syarak means taking care of the religion, life/soul, mind, offspring and wealth. Every thing that contains these five crucial aspects, is considered as maslahah and every thing that are free from these five aspects is mafsadah (damage) (1998: 86-87). Maslahah daruriyat differs in level with each other. Maslahah related to keeping the religion must be prioritized compared to taking care of one's life and so on and so forth. (al-Qaradawi 1998: 311). Al-Qaradawi divided maqasid shar'iyah generally in two sections; they are general maqasid and micro (juz'i) maqasid. What included in general maqasid are creating justice, stability in the country and humans consortium towards Allah's reward for them, while juz'i maqasid includes the purpose of zakat. (1986: : 231).

Al-Qaradawi had also taken proactive steps by inserting protecting one's honor as one of the important daruriyat where syarak pays attention to it in addition to the five daruriyat discussed by earlier scholars. Honor is translated by him in current language as keeping one's dignity and good name/reputation. (1990: 40). Other than that, al-Qaradawi also criticized the theory of daruriyat presented by al-Ghazali, for limiting it to the five mentioned importance only, while there are other other daruriyat that has to be focused by Islam syariat such as keeping one's dignity, enforcing peace, justice, social assurance, keeping of rights and public freedom and enforcing the mid ummah (1998: 91-92).

ATTENTION TOWARDS MAQASID SHAR'IIYAH

There a few factors that draw al-Qaradawi's attention and interest in maqasid shar'iyah. They are the result of:

1. The exegesis of al-Quran al-Karim and its arguments (ta'lil) found in this universe created by God, commandment, the arrangement of causes, arguments and the effect of such arguments, the results and products.

2. Detail studies on syarak laws and high values contain in it for the benefits in this life and hereafter.
3. Making friends with scholar figures who specialized in maqasid such as Ahmad Shaltut, Abu Zuhrah, Muhammad al-Ghazali and others.
4. Reading scholars' books that focus on maqasid shar'iyah like ibn Taymiyyah, ibn al-Qayyim, al-Ghazali, al-Shatibi, al-Dihlawi and Rashid Reda.
5. Tribulation of struggle faced by Islamic movements in carrying out dakwah and Islah in society and his earnestness in correcting the path of re-realization of Islam and rejecting ideas proposed by the enemies of Islam. (Buqalqulah 2007: 4-5).

THINKING DEVELOPMENT OF MAQASID SHAR'IIYAH BY AL-QARADAWI

Al-Qaradawi's thinking on maqasid shar'iyah can already be seen in his first book *al-Halal Wa al-Haram Fi al-Islam* and from that it developed to his other works. But the attention to maqasid shar'iyah at that time was more in terms of its wisdoms and secrets contained in syarak laws. In his next work *Fiqh al-Zakah*, he started to discuss maqasid shar'iyah in terms of Usuli debates and played an important role in his ijthad before ruling a certain law. He took into consideration the wisdom in performing qiyas. In applying qiyas, al-Qaradawi always looked at the result of a certain action or the practical result caused by the specified laws and how far is its suitability or contradiction to maqasid shar'iyah. After that, al-Qaradawi separated the institutions related to maqasid shar'iyah into three groups; the first group is those who are jumud towards the external passages, juz'i in nature, tradition and frozen uruf. The second group is the group who neglects the passages and other things connected with Islamic judiciary on the name of maslahah, maqasid and freedom from jumud and regression and the third group is the middle group which is in between the first two groups. This third group is the group who is jumud towards external passages and at the same time neglects passages. (Awdah 2007 : 29-31).

Next is the level of criticizing a few maqasid theories learned and taught by him to Islamic community, because they seemed to be more prone towards individual aspects but regard community aspects on the side. For example in the case of the five daruriyat, he added the sixth daruriyat which is to take care of one's honor. The reason being is, according to him Islam takes high values of the society into consideration and inserts it into maqasid basically a few other things as what was proved by mutawatir passages and numerous laws, amongst them justice, brotherhood, assurance, and dignity. (al-Qaradawi 2001: 115-116).

The final stage is writing distinctive books on maqasid shar'iyah. His writing was presented to the Council of Study Center Establishment for Maqasid Shar'iyah Islamiyyah organized by al-Furqan Islamic Heritage organization headquartered in London, in 2005. Then al-Qaradawi strengthened his writing in maqasid shar'iyah in a complete book titled *Bayna al-Maqasid al-Kulliyyah Wa al-Nusus al-Juz'iyyah Dirasah Fi Fiqh Maqasid al-Shari'ah*. In this book he made further detail analysis on maqasid and its connection with the mediocre thinking institution. . (Awdah 2007: 32).

THE MAIN GENERAL MAQASID ACCORDING TO AL-QARADAWI

By referring to al-Qaradawi's works, there are five maqasid that obtained a specific place in his thinking and fiqh and it can apparently be seen based on the opinions, fatwas and stand points employed by him. These maqasid are:

1. To Prioritize in Convenience (Taysir)

Facilitating the matters in humans lives according to al-Qaradawi is the syariat spirit itself. This is because he believes that the genres that take control of Islamic world for a few centuries are strict genres. For instance in women's issues. (Abu Shaqqah 1995: 19). This stringent habits emerged mainly because of ignorance of most Muslims towards syarak passages that contained elements that actually facilitate things and against the elements that complicate things especially the sahih passages from prophet's sunnah. Anyhow al-Qaradawi affirms that "facilitate" does not mean facilitating in terms of creating a new syariat and aborting what has been obligated by Allah upon humans or allowing what Allah has forbidden and vice versa.

This is not facilitating, in fact it digresses and deviates from Islam's path and it definitely cannot be accepted by the pious people who respect his religion and mind. (°Awdah 2007: 60-61). The definition of facilitating according to him is within the frame of observing syariah passages and spirit.

2. To Uphold Justice

Al-Qaradawi regards justice as a basic human value and an overall objective of scriptures sent from above. Justice meant by al-Qaradawi are justice in law, justice in society and justice in international politics. (°Awdah 2007: 64-65). Islam gives precedence in justice towards oneself, by balancing the needs to fulfil one's rights with God's rights and other people's rights. Islam also instructed its followers to be fair towards family and all humans levels, which covers those who are liked and those who are hated. The love to somebody else does not prohibit a person to address the evil deeds done by that somebody and the hatred to somebody else does not prohibit a person to be fair towards that somebody. (al-Qaradawi 1993: 146-148).

3. Ta°abud

Islam balances between soul and body in this life and hereafter. To worship Allah s.w.t is the main reason Allah created this universe and breathed in souls into humans. Humans are not created for economy, on the contrary, economy is created for humans. Humans are created by Allah s.w.t to go towards Allah's path with mind and heart and to oppress desire to be obedient to Allah's commandments (al-Qaradawī 2001b: 543). Standing firmly besides external ibadah and matters set by syarak are among the important methods to be undergone by prominent scholar figures who founded that masalah itself. Ibadah absolutely cannot be made as wasilah that can be changed.

4. Dakwah (Preach)

Dakwah in al-Qaradawi's view or even in his fiqh has an important role. Very often he connects his fatwa with the effect of dakwah towards Allah's path and to drive humans towards the God who created them. Dakwah in his opinion is directly related with universal habits found in Islamic scriptures and general humans values such as freedom, brotherhood, equality, justice and tolerance. Al-Qaradawi rejects dakwah method performed by the new zahiri group who carries out dakwah in this modern world with jumud idea that is rejected by healthy humans nature. For example in issues related to women, family, cultural issues, education, economy, politics, administration, international relations and relationship with the non-Muslims. (2006a: 45).

5. To Observe Fitrah

Observing fitrah is a new chapter in fiqh that connects contemporary maqasid theory with Allah's sunnah in this universe and humans' creation and it serves to all syariah general maqasid mentioned before. Islam is a religion in par with fitrah. Al-Qaradawi (1996b: 115-116) talks about fitrah in the forms of fondness and freedom to own and Islam highly regard individual ownership value. Islam is also a religion that highly respects individual ownership rights because it is a religion that respects fitrah, in fact it respects freedom and humanity. In singing issue he suggested that it is no more than worldly goodness enjoyed by humans' souls and it is seen as fine by logical mind and healthy fitrah, it is even admired for hearing. Since the liking to singing is humans' fitrah, Islam does not come for the purpose of fighting it but to put it at the correct ways. (al-Qaradawi 2006b: 125-128).

THE BOOK AL-HALAL WA AL-HARAM FI AL-ISLAM

The book '*al-Halal Wa al-Haram*' was written by al-Qaradawi upon suggestions made by prominent scholars of al-Azhar. The writing style was never done before and it receives a warm welcome from the Muslims all over the world. It was copied later by Muslims on the west or even on the east from numerous fiqh sects and thinking institutions. It is not entirely tied to a certain famous sect in Islamic world because truth does not rely merely on a specific fiqh sect, in deed all imams of the sects never claimed that truth is on their side and they were maksum from any wrongdoings, on the other hand they are all mujtahid in seeking the true believe. If they make mistakes, they will still receive good reward and if they are right, they receive double reward. (Akram al-Nadawi 2001:145-146).

The main issues to be highlighted in this book is the clarification on the matters of halal and haram in Islam by comparing the religion and culture of other nations in this world using the method of mediocre writing. The discussion focused on external good practices and it does not involve the good practices by heart, soul, emotion and desire.

This book is divided into four chapters:

1. First Chapter: Islamic Principals in the Issue of Halal and Haram

In this chapter he discussed the matter of halal and haram during jahiliyah times including what was practiced by the Brahman people in Hindu teachings, priests in Christian teachings and mazdak stream in ancient Persian society, then he discussed on the principals organized by Islam in the matter of halal and haram such as the origin of allowability to do something, prohibition and permission to do something belongs solely to Allah s.w.t, the conduct of allowing what is forbidden and forbidding what is allowed is equal to syirik, prohibition on villainous matters and matters that harm people, halal matters no longer require haram matters, every things that lead to haram, the status is haram, to do tricks to eat something haram is haram, a good intention does not make a haram matter to be halal and he also mentioned the obligation to avoid oneself from falling into syubhah matters, in order to prevent oneself from getting involve in haram matters.

2. Second Chapter: Halal and Haram in a Muslim's Personal Life

In this chapter he discussed about halal and haram in matters of food, drinks, clothes, ornaments, households, efforts and source of income.

3. Third Chapter: Halal and Haram in Marriage and Family Life

In this chapter he discussed about the natural sexual desire created by Allah for humans, marriage, the relationship between a husband with his wife, birth restriction, divorce, performing good deeds to both parents and children.

4. Fourth Chapter: Halal and Haram in a Muslim General Life

In this chapter he talked about society's belief and tradition, games and arts, relationships between Muslims and non-Muslims, muamalat and societal relations. (al-Qaradawi 1985). Besides receiving warm welcome from the Muslim community from all over the world, this book also falls to the victim of harsh criticism by some scholars, who strictly adhere to taklid and against scientifically open approach in undergoing research adhered by al-Qaradawi. Al-Qaradawi followed more on dalil than al-Kitab and al-Sunnah and this created difficulties to some scholars who stick strongly to taklid. The effort done by him, however, is not in vain. There are a lot of contemporary scholar figures who appreciated his efforts and methods used which is not purposely invented by him, rather it is more towards keeping ijtihad spirit placed by the companions and tabiin and then followed by the mujtahidin imams. (Akram al-Nadawi 2001: 148).

Al-Zarqa' (2001: 214) has once asserted that it is compulsory that the book '*al-Halal Wa al-Haram Fi al-Islam*' to be owned by every Islam family while Zuhayr al-Shawish (Akram al-Nadawi 2001: 145) stated that '*al-Halal Wa al-Haram Fi al-Islam*' is a book that receives a warm welcome from society just like thirsty people who struggles with each other to get pleasant cold drinks. This book has been reprinted no less than 40 times in Arabic language in Cairo, Beirut, Kuwait, Jaza'ir, Maghribi as well as United States of America, in addition to being translated in English, German, Urdu, Persian, Malaysian, Indonesian, Malibarian, Swahilian, Spanish, Chinese and others. (Ulwani 2007: 48).

THE APPLICATION OF MAQASID SHA^CIYYAH IN AL-HALAL WA AL-HARAM FI AL-ISLAM

Studying the book *al-Halal Wa al-Haram iī al-Islam*, there are a lot of maqasid aspects contained in it even though the book was his first work, as mentioned before. Amongst them are:

1. The Secrets and Wisdoms of Syariah

While discussing on the issue of prohibition from eating animal carcasses, al-Qaradawi presented the wisdoms behind it which is it is the natural habit of normal humans to feel disgusted by carcasses.

People with sane minds agreed that eating animal carcasses is a form of humiliation which is against the humans honor. All followers of the religion sent from above (revealed) are forbidden from eating animal carcasses and allowed to eat slaughtered animals only, even though the method of slaughtering may vary. Animals that died by themselves are usually caused by a long suffered diseases or a disease that exist suddenly or from eating poisonous plants and such. All those may bring harm to humans who consume it. While Allah s.w.t forbid the eating of animal carcasses, He gave a space for other animals or birds to eat it, as a gift for them, because they too, ummah like humans. Other than that, humans have to take good care of their livestock animals and should not expose the livestocks to illness and weakness until they die because of it, because their death is a waste of asset. Hence, the animals have to be treated or given enough rest. (1985: 46-47). Allah s.w.t said:

فَإِذَا قَتَلْتُمْ فَاحْسِنُوا قَالَ غَيْرُ مُسْلِمٍ يَقُولُ فَاحْسِنُوا الْقِتْلَةَ وَإِذَا دُبِحْتُمْ فَأَحْسِنُوا الدَّبْحَ وَيُجَدُّ أَحَدَكُمْ شَفْرَتَهُ وَلْيُرِحْ دَبِيحَتَهُ

Translation:

But if anyone fears partiality or wrong-doing on the part of the testator and makes peace between (the parties concerned), there is no wrong in him: for Allah is Oft-Forgiving, Most Merciful. O you who believe! Observing As-Saum (the fasting) is prescribed for you as it was prescribed for those before you, that you may become Al-Muttaqun (the pious).

(al-Quran, al-Baqarah 2: 182-183).

Related to eating animal that died because of being strangled, blown violently or fell from a high place, goring of horns by another animal and partly eaten by a wild animal other than those that had an opportunity to be slaughtered, the wisdom of the prohibition other than avoiding harm, is a fair punishment from Allah to humans for leaving the animal to die in the situations mentioned above. This is due to the fact that Allah s.w.t taught humans to show sympathy to animal and to take good care of it and the animal should not be tormented in any ways such as beaten to death or let it fall from a high place or attacked by other animals. For wild animals, the prohibition from eating it is to honor human and to cleanse themselves from consuming the animal carcasses. The Arab society in Jahiliyah era used to consume lamb, veal and camel meat that were leftovers from wild animal. (al-Qaradawi 1985: 48-49).

Related to animal slaughtering, the secret is it can end the animal’s life in the fastest way and to release it from any sufferings. For this purpose, a sharp object is used, for it provides a quick result in ending the life of the animal and slaughtering is done on the neck, which is the easiest place where the life can be ended. Syarak prohibited the slaughtering of animals by using teeth or bones, because both ways are tortures to animal. (al-Qaradawi 1985: 58-59). This is suitable with hadith of Rasulullah s.a.w narrated through Shaddad bin Aws r.a:

إِنَّ اللَّهَ كَتَبَ الْإِحْسَانَ عَلَى كُلِّ شَيْءٍ فَإِذَا قَتَلْتُمْ فَاحْسِنُوا قَالَ غَيْرُ مُسْلِمٍ يَقُولُ فَاحْسِنُوا الْقِتْلَةَ وَإِذَا دُبِحْتُمْ فَأَحْسِنُوا الدَّبْحَ وَيُجَدُّ أَحَدَكُمْ شَفْرَتَهُ وَلْيُرِحْ دَبِيحَتَهُ

Translation:

Verily, Allah has obligated you to be good on all creatures. In killing, kill properly. In a narration not by Muslim it is said: Make proper your killing and when slaughtering, slaughter properly. The knife must be sharp and the animal must be put to rest. (al-Tirmizi, Kitab Ma Ja’a Fi al-Diyah Kam Hiya Mina al-Ibili, hadis no: 1329)

In connection therewith the prohibition of using dolls other than for children’s toys, the secret does not only refers to keep one’s tauhid and to avoid from imitating the group who worships idols. They created the idols with their bare hands and then purify them and stand devotedly in front of them, on top of that the idols were made as worship tools where they were asked for all kind of help as what was performed for Allah s.w.t after the initial purpose of these idols which were as tools to obey and remember the pious people who served the community.

Eventually these idols were worshipped as gods other than Allah s.w.t and the people were hoping for all kinds of blessings and syafaat from these idols, as what happened to the people of Wad, Suwa^c, Yaghuth, Ya^cuq and Nasr. Islam closed its door to anything that brings damage by closing all windows that can provide easy ways for the hearts and minds of people who engulfed themselves with syirik, be it obvious or discreetly or imitating the group of people who worship statue or religious fanatics. Related to the prohibition to build a statue is because the statue being sculptured and carved will make the maker to easily catch a deceiving disease where the maker feels like he too can create a creature from non-existence to existence as what is done by Allah s.w.t. There was a story where there was an Arab man during jahiliyah era carved a statue and then he stood up very long in front of it while scrutinizing it until he became amazed by his craft work and said: Speak, speak. (al-Qaradawi 1985: 99). Rasulallah s.a.w had once said in a hadith narrated by A'ishah r.a:

إِنَّ أَصْحَابَ هَذِهِ الصُّوَرِ يَوْمَ الْقِيَامَةِ يُعَذَّبُونَ فَيَقَالُ لَهُمْ أَحْيُوا مَا خَلَقْتُمْ وَقَالَ إِنَّ النَّبِيَّ الَّذِي فِيهِ الصُّورُ لَا تَدْخُلُهُ الْمَلَائِكَةُ

Translation:

Truly the people who carved statues will be tormented in the doomsday. To them will be said: Give life to what you have created. Rasulallah s.a.w said: Angels will not enter a house where there are statues in it (Al-Bukhari, Kitab al-Buyu^c, hadis no: 1963).

Other than that, the people who created the sculptures will not stop there, they will continue to build other statues including statues of naked or half-naked women, idol worshipping phenomena will rise and they will make prominent the syiar of other religions. A statue is also a symbol of wealth for the rich people. They filled their palaces and rooms with statues. Because of that no wonder Islam fights against excessive luxury in all forms and phenomena like gold, silver and silk wearing – including statues from being adorned inside Muslims homes. (al-Qaradawi 1985: 98-99).

2. Maslahah to Protect Life Safety

While explaining on the obligation to treat a disease, al-Qaradawi explained that Islam encourages its ummah to get treatment when infected by a certain dangerous disease. In receiving treatments and medicines, not all involve halal things, sometimes it involves haram things. Using the haram medicine in normal situation is haram but in emergency situation it is allowed based on hadith from Rasulallah s.a.w narrated through Anas r.a:

رَخَّصَ النَّبِيُّ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ لِلزُّبَيْرِ وَعَبْدِ الرَّحْمَنِ فِي لُبْسِ الْحَرِيرِ لِجَنَّةٍ بِهِمَا

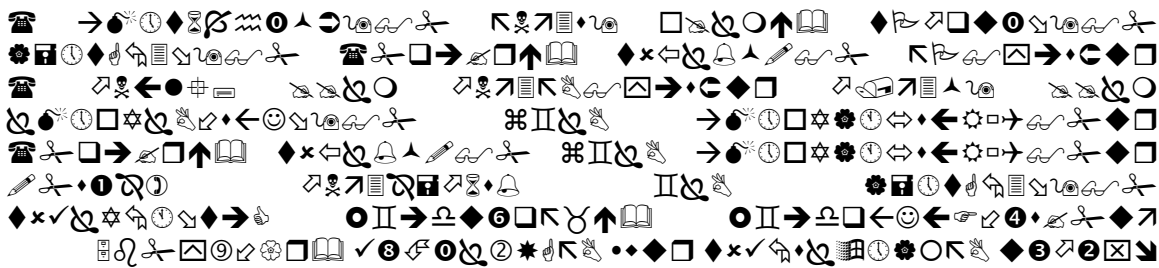
Translation:

Rasulallah s.a.w gave flexibility to al-Zubir and Abd al-Rahman to wear silk because of skin diseases suffered by both of them (Al-Bukhari, Kitab Qawlullahi Qul Man Harrama Zinatallahi, hadis no: 5391.)

This opinion is closer to Islam spirit that strongly guard human's life in every legislations and messages. However, the flexibility to take the haram medicine in emergency situation is tied to a few rules, amongst them are there really exist an emergency situation that may threat one's life, if the haram medicine is not taken. Other rules include inavailability of other halal medicine that can replace the haram medicine and it must be suggested by a Muslim doctor that can be counted for his experience and religion simultaneously. (al-Qaradawi 1985: 53).

3. Maslahah to Keep the Offspring

In debating about a marriage with a woman from among ahlul kitab, according to al-Qaradawi Islam allows a Muslim man to marry a woman of ahlul kitab from among the Jews and Christians and considered them to be a believer of a religion sent from above (revealed), even though the ahlul kitab had deviate and changed the content of their books. Just as Islam allows to eat food made by them, Islam also allows marriage with their women. Allah s.w.t said:



Translation:

This day are (all) good things made lawful for you (to eat) the good and delicious. The food (slaughtered) of those who have received the Scripture is lawful for you, and your (slaughtered) food is lawful for them (it is not wrong for you to provide them with food). And so (allowed for you to marry) are the virtuous women of the believers and the virtuous women of those who received the Scripture before you (lawful for you) when ye give them their marriage portions and live with them in honor, not in fornication, nor taking them as secret concubines...

(al-Quran, al-Ma'idah 5 : 5)

This is one kind of tolerance in Islam which can barely be found in other religions, even though the people of the Scriptures are considered to be kufur and deviate. However, the women of ahlul kitab that can be married must be free women who always take care of their virtues and not prostitutes women. It is forbidden to marry a woman of ahlul kitab where the society is hostile towards Islam and the Muslims, because the marriage itself will form a family institution and express love amongst them. Henceforth, it is not allowed to marry an Israeli women now. Even though it is allowed to marry a woman of ahlul kitab, marrying a woman of the believers and and always tend to her religion, is more important for a Muslim than marrying a woman of ahlul kitab or a woman who inherits a religion from her ancestors. However, in a situation where it is worried that the wife from among the ahlul kitab can threaten the faith of their children, than it is compulsory to avoid such marriage with ahlul kitab woman. So does in a situation where the number of Muslims in a country is too small, then it is haram for the Muslims guys to marry non-Muslim women from amongst the ahlul kitab, in fear that it will bring harm to the Muslim community itself such as the Muslim women will stay unmarried until old age and the exposure of oppression towards the Muslim community. (al-Qaradawi 1985: 178-179). This is to ensure that Muslims generations are continued and their faith is protected.

4. To Prevent Harm

While discussing on the action of performing 'istimna' which is to masturbate using hands when having sexual stimulation for the purpose of releasing the sexual desire, al-Qaradawi explained that it is forbidden by most of the scholars. Amongst them is Malik who reasoned with Allah s.w.t commandment:



Translation:

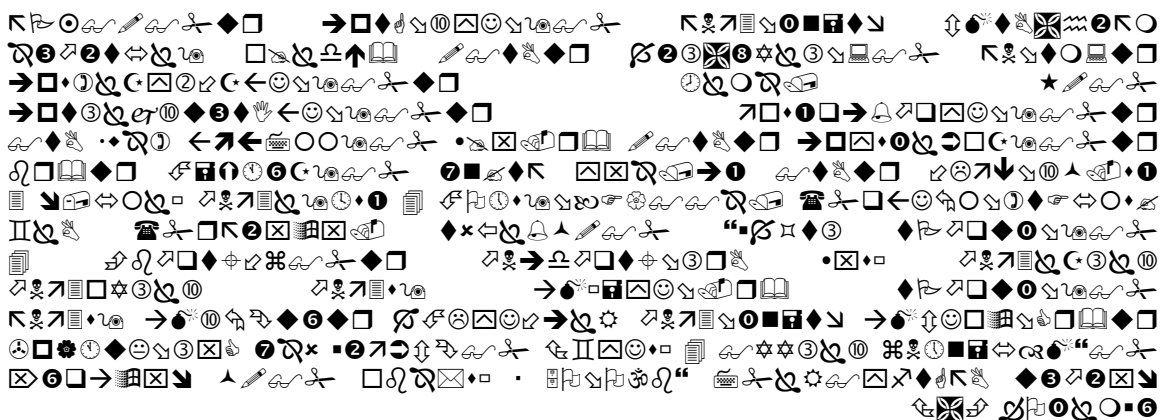
And those who guard their chastity (i.e. private parts, from illegal sexual acts). Except from their wives or (the captives and slaves) that their right hands possess, for then, they are free from blame; But whoever seeks beyond that, then those are the transgressors;

(al-Quran, al-Mu'mininun 23: 5-7)

However, for Ahmad bin Hanbal, such an act is allowed, because semen is considered as body's excess product and it is allowed to let it out as it is allowed to draw out dirty blood from the body by means of cupping. This view is held and supported by ibn Hazm. However, the scholars of Hanbali sect suggested that the permission to perform Istimna' is bound to two rules: firstly if it is feared that a person might fall into adultery and secondly if a person is incapable of getting married. Al-Qaradawi is more prone towards the view of Ahmad bin Hanbal who allows a person to perform Istimna' in a sexually stimulated situation and at the same time it is worried that a person might get involved in haram matters should he not do so. For example, a young man who is studying or working far away from his homeland and at the same time, there are various matters that allure his sexual desire and he worries that he will be trapped in sinful matters. At that time he can perform Istimna' to release his sexual tension as long as it is done not excessively and it does not become a norm. However, al-Qaradawi also suggested that it is more important for a person in such situation to follow the formula suggested by Rasulullah s.a.w which is to perform saum (fast), because fasting can educate desire and teach how to be patient in handling sexual desire, besides it can strengthen one's taqwa (piety) and muraqabah for Allah s.w.t in oneself. (1985: 166-167).

5. Social Assurance

While discussing on the issue of the allowability to eat haram food in emergency situation, al-Qaradawi gives flexibility for a person to consume haram animals including animal carcasses and such as explained in al-Quran. Allah s.w.t said:



Translation:

Forbidden to you (for food) are: Al-Maytatah (the dead animals - cattle-beast not slaughtered), blood, the flesh of swine, and the meat of that which has been slaughtered as a sacrifice for others than Allâh, or has been slaughtered for idols, etc., or on which Allâh's Name has not been mentioned while slaughtering, and that which has been killed by strangling, or by a violent blow, or by a headlong fall, or by the goring of horns - and that which has been (partly) eaten by a wild animal - unless you are able to slaughter it (before its death) and that which is sacrificed (slaughtered) on AnNusub (stone altars). (Forbidden) also is to use arrows seeking luck or decision, (all) that is Fisqun (disobedience of Allâh and sin). This day, those who disbelieved have given up all hope (to deviate you) of your religion (after seeing the development of Islam and its ummah), so fear them not, but fear Me. This day, I have perfected your religion for you, completed My Favour upon you, and have chosen for you Islâm as your religion. But as for him who is forced by severe hunger (to eat the haram), with no inclination to sin (such can eat these above-mentioned meats), then surely, Allâh is Oft Forgiving, Most Merciful.

(al-Quran, al-Ma'idah 5: 3)

However, a person cannot be considered to be in an emergency situation, if within the society there still exist something that may prevent the emergency (al-Qaradawi 1985: 53-54). An emergency situation is not defined whereby a person does not have food to eat only, in fact it also involve the society that has no excess of food to be given to a person in an emergency situation. This is due to the fact that in Islam, society members must cooperate and help each other in performing good deeds like a strong body or structure. The people who prevent other people from getting their rights are the despotics. Because of that it is not strange that Abu Bakar r.a made a decision to fight the people who refuse to pay zakat (obligatory alms) in his time. (Ibn Hazm, t.th: 7: 159).

6. To Uphold Justice

In the discussion on the topic of the relationship between Muslim community and non-Muslim community, al-Qaradawi outlined that Islam does not prevent its ummah to act fairly towards the non-Muslim including the ahlul kitab (people of the Scriptures) and Arab musyrikin. Allah s.w.t said:



Translation:

Allâh does not forbid you to deal justly and kindly with those who fought not against you on account of (your) religion and did not drive you out of your homes. Verily, Allâh loves those who deal with equity. It is only as regards those who fought against you on account of (your) religion, and have driven you out of your homes, and helped (others) to drive you out, that Allâh forbids you to befriend them. And (remember) whosoever will befriend them, then such are the Zâlimûn (wrong-doers those who disobey Allâh).

(al-Quran, al-Mumtahanah 60 : 8)

Furthermore, the non-Muslims who reside in an Islamic country, are also the citizens of that Islamic country based on the terms applied recently. The Islamic government must observe and respect their rights including the freedom to chose their own religious belief and to practice that religion. The government must not force them to embrace Islam. The necessity to be fair to these non-Muslim citizens was highly guarded by Khulafak al-Rasyidin in their reign era. Among the justness to them was to allow their children who embrace Islam to take care of their parents' welfare. The non-Muslims were asked for help in performing crucial tasks for the country, if they were truly trustworthy, and gifts are given to and received by them, because Rasulullah s.a.w himself accepted gifts from many kings and rulers of the world during his lifetime even though those rulers did not devout themselves to the scriptures brought on by the Messenger s.a.w. More than anything else, Islam highly honor humans, including the ahlul kitab and other groups of people. (al-Qaradawi 1985: 322-328).

7. To Recognize Fitrah

In the arguments on the matter of entertainment and singing, al-Qaradawi clarified that Islam never obliged that every single speech expressed by its ummah to be zikir (remembrance of Allah), when they are silent they must be thinking, what they listened to must be the al-Quran recitation and every leisure time must be spent in a mosque.

On the contrary, Islam also declares the fitrah and natural drive in humans. Allah s.w.t created them to be the creatures who like to have fun, laugh, play, eat and drink at certain times and this fitrah must be fulfilled. In a hadith narrated through Hanzalah al-Usayyidi r.a who said:

نَافِقَ حَنَظَلَةَ يَا رَسُولَ اللَّهِ فَقَالَ رَسُولُ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ وَمَا ذَاكَ قُلْتُ يَا رَسُولَ اللَّهِ تَكُونُ عِنْدَكَ تُذَكِّرُنَا بِالنَّارِ وَالْجَنَّةِ حَتَّى كَأَنَّ رَأْيِي عَيْنٌ فَإِذَا خَرَجْنَا مِنْ عِنْدِكَ عَافَسْنَا الْأَزْوَاجَ وَالْوَالِدَاتِ وَالصَّبِيغَاتِ نَسِينَا كَثِيرًا فَقَالَ رَسُولُ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ وَالَّذِي نَفْسِي بِيَدِهِ إِنْ لَوْ تَدُومُونَ عَلَى مَا تَكُونُونَ عِنْدِي وَفِي الذِّكْرِ لَصَافَحْتُمْ الْمَلَائِكَةَ عَلَى فُرُشِكُمْ وَفِي طَرَفِكُمْ وَلَكِنْ يَا حَنَظَلَةَ سَاعَةٌ وَسَاعَةٌ ثَلَاثَ مَرَّاتٍ

Translation:

Hanzalah has become a munafik O Rasulallah s.a.w? Rasulallah s.a.w said: Why so? I said: O Rasulallah while we were in your assembly, you reminded us with hellfire and heaven just like we were seeing the hellfire and heaven with our own eyes. When we came out from your assembly, we socialized with our wives, children and we got involved in numerous daily tasks, we forgot a lot of what you have reminded us? Rasulallah s.a.w said: For my sake, I am under His grip, if you continue to recollect the admonition acquired in my assembly and you stay in remembrance state, then definitely the angels will shake hands with you on your beds and routes but O Hanzalah celebrate time for the sake of time according to its situation three times. (Muslim, Kitab al-Tawbah, hadis, no: 4937).

Al-Qaradawi divided singing into those that are haram and agreed by scholars in terms of its prohibition which are those that contain lyrics with an element of immorality or call upon the society to perform immoral activities and those who are still under scholarly debates in terms of their allowability. Related to the allowability based on scholars agreement, it involves fitrah singing whereby a person sings for himself when he is alone, the singing from the husband to the wife, female slave to her master, the singing to call upon camels as was done by camel shepherds from amongst the Arab, the singing of the women in marriage ceremonies in a certain societies and such. Al-Qaradawi himself believed that singing itself in terms of its nature is not a wrongdoing, because in reality, it falls into a good category which is allowed in Islam. What brings sin are matters connected to it or aspects that transfer its scope from halal to haram. Most of it is allowed in conjunction with an event as a sign of happiness and mind relaxing for instance during Eid, marriage ceremony, to welcome a person who returns back after being gone for a long time, akikah ceremony, celebrating the birth of a child and such. One of the reasons presented by him is a hadith narrated through A'ishah r.a:

أَنَّ أَبَا بَكْرٍ رَضِيَ اللَّهُ عَنْهُ نَحَلَ عَلَيْهَا وَعِنْدَهَا جَارِيَتَانِ فِي أَيَّامِ مِنَى تُدْفِقَانِ وَتَضْرِبَانِ وَالنَّبِيُّ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ مُتَعَشٍّ بِثَوْبِهِ فَانْتَهَرَهُمَا أَبُو بَكْرٍ فَكَشَفَ النَّبِيُّ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ عَنْ وَجْهِهِ فَقَالَ دَعُهُمَا يَا أَبَا بَكْرٍ فَإِنَّهَا أَيَّامٌ عِيدٍ

Translation:

One day Abu Bakar entered his daughter house A'isyah and at that time inside the house there were two slave girls singing and beating musical instruments on the day of Mina. The Prophet s.a.w at that time were covered in his blanket. Abu Bakar cursed the action of the two slave girls. Seeing Abu Bakar's action, the Prophet s.a.w took off his blanket from his face and said: Let them be O Abu Bakar. Today is the day to celebrate. (Al-Bukhari, Kitab al-Jumu'ah, hadis no: 934).

Meanwhile, al-Qaradawi also presented a few ties that must be observed which are:

- The lyrics of the song being sung must not oppose Islam ethics and lessons such as not praising alcoholic drinks or encouraging people to consume it.
- The techniques being applied must not withdraw it from halal scope into haram scope such as by performing a technique that may turn on sexual desire.

- c. A person must not act excessively in having fun and listening to a song, because any permissible things, if done excessively, will interfere with the execution of obligatory deeds.
- d. Every person intended to have fun and listen to the singing must make his own judgement on how far the entertainment desired will bring benefits or harms to himself. If the harmful aspect is greater for example it may cause fitnah in the hearts and actions simultaneously, then it is better to neglect the entertainment.
- e. The entertainment does not involve haram events such as the serving of alcoholic drinks, mingling with the fasik and zalim and such. (al-Qaradawi 1985: 278-279, 289 dan 292).

8. To Behold Brotherhood

While discussing the issue of the prohibition for a Muslim to boycott another Muslim, al-Qaradawi clarified that Islam highly emphasize on brotherhood spirit and for the sake of beholding this brotherhood, Islam forbids a Muslim to boycott his own relative (in Islam) for more than three days without a valid reason. After three days had passed, they have to make an effort to find a peaceful solution and eliminate any arrogance, anger, hatred and enmity that prevent the brotherhood to be kept. Rasulullah s.a.w said in a hadith narrated via Abu Ayyub al-Ansari r.a:

لَا يَحِلُّ لِمُسْلِمٍ أَنْ يَهْجُرَ أَخَاهُ فَوْقَ ثَلَاثِ يَلْتَقِيَانِ فَيَصُدُّ هَذَا وَيَصُدُّ هَذَا وَخَيْرُهُمَا الَّذِي يَبْدَأُ بِالسَّلَامِ

Translation:

It is forbidden for a Muslim to leave (boycott) his brother (in Islam) for more than three days. They both meet in a journey and one person looks in one direction while the other person looks in another direction (in enmity). The best between those two (brothers in Islam) is to start to address each other by giving salam.(al-Bukhari, Kitab al-Isti'zan, hadis no: 5768.)

Conclusion

The discussion on Maqasid Shar'iyah according to al-Qaradawi is not limited solely on the topics related to discussion of maqasid shar'iyah among ancient scholars only like ta'lil (reason) or ways of uncovering maqasid, maslahah and mafsadah or others but rather, it involves the analysis on the privileges of Islam or syariah or Islamic faith. It was analyzed by earlier scholars on the name of virtues of Islam (Mahasin al-Islam) or the virtues of syariah (Mahasin al-Shari'ah). At an angle, his view has a similarity with the views of Ibn Ashur. Maybe the factor of life proximity between him and Ibn Ashur had also brought the discussion topics closer. Besides, al-Qaradawi also had clearly discussed on the necessity to observe reality, to prioritize in aspect that facilitates, to prevent difficulties, to recognize fitrah, human maslahah, modesty, equality and others. In this book, al-Qaradawi had directly applied and considered the aspect of maqasid shar'iyah or maqasid al-Qur'an and al-Sunnah in his ijtihad, similar to what was done by Rashid Reda in his masterpiece work *al-Wahyu al-Muhammai*. It is an approach more suitable with the reality faced by the majority of Muslim community and closer to fitrah and sane minds.

He also hereforth had transferred his maqasid world from discussion world at universities and faculties to mosques and halls which are the public's general place of assembly and from theoretical world to the reality of mankind and general life. He adjoined two elements of maqasid (general maqasid and juz'i maqasid) simultaneously in his book '*al-Halal Wa al-Haram Fi al-Islam*' to ensure that the decisions (ijtihad) made are closer to the current scenario. Even though not completely bounded with the methods used by al-Shatibi and al-Ghazali, al-Qaradawi still appreciate the maqasid presented by both prominent figures in maqasid, especially in his works titled '*al-Siyasah al-Shar'iyah Fi Daw'i Nusus al-Shari'ah Wa Maqasidiha*' and '*Taysir al-Fiqh al-Li Muslim al-Mu'asir*' (1998). Al-Qaradawi's view on maqasid shar'iyah contained some specific objectives.

The first and foremost is to present Islam in a moderate mold as what was sent down (revealed) to Rasulullah s.a.w which were strong and steady in usul matters, flexible in subsidiary matters, easy in fatwa, gladden people in dakwah and protected Islamic faith and syariah from being corrupted by the people who disgress, jumud and love to perform detrimental acts. His application on maqasid shar'iyah in his first work *al-Halal Wa al-Haram Fi al-Islam* focused a lot on the secrets and wisdoms of syariah. This can be clearly seen while he was discussing the issue of food and beverages, slaughtering according to syar'i, clothings and decorations, households, efforts and jobs, marriages as well as muamalah. At the same time he also emphasized on the aspect of social assurance, beholding brotherhood, recognizing fitrah, guarding lives and offspring, preventing harm and upholding justice.

It is hoped that the approach taken by al-Qaradawi will be studied and explored in depth and then followed by Islamic intellectuals in our country especially those who are directly involved in fatwa, teaching and dakwah and with that, the development of Islam will be lively and Islam will be seen as a religion that may solve numerous issues taken place within the community in a more practical ways and simultaneously improve the image of the Muslims as the mid race who always enjoining what is right, forbidding what is wrong besides devoting to Allah s.w.t.

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